

**Minutes for Zoning Board of Adjustment
December 14, 2006 – 7:00 P.M.**

Roll Call

Present for the hearing were Vice Chairman Donohue, Hoffman, and Aseltine. Michele Braun was present as the Clerk. Public present were John Knox, Frank Plumley, Nanci Allard, Richard Rivers, and David Blythe.

Approval of Minutes

A motion to approve the minutes as presented for the August 24, 2006 Hearing was made by Aseltine and seconded by Hoffman. **The motion passed 3-0-0.**

The Hearing began at 7:04 pm.

Chairman Landers stated the following:

1. All meetings of the Board of Adjustment shall be open to the Public.
2. The Officers of the Board of Adjustment may administer oaths to the witnesses.
3. All witnesses will be "Interested Persons" to the appellant. "Interested Persons" are owners of property abutting that of the appellant.
4. All testimony by "Interested Persons" and materials shall be germane to any issue under appeal.
5. All Hearings shall be open to the public and the rules of evidence at such hearings shall be the same as set forth in Title 3§810.
 - a) Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence as applied in civil cases in superior courts of this state shall be followed.
6. The Board of Adjustment shall render its decisions, which shall include "Findings of Facts".

Hearing 061214-1: Richard Rivers requests a Variance under Section 403 from the requirement that his property at 312 Central Street be restored within one year to its previous non-conforming use as a Multi-Family Dwelling.

Vice Chairman Donohue invited those present who were opposed to the granting of the request to speak first.

Mr. Knox stated that he supported the Lawsons' request (stated in a letter to the Board) to postpone the hearing until a date when the Lawsons could attend. He stated that there has been a lot of noise from parties at that property, and he doesn't like it. He would like to see the building become a one- or two- family building.

Mr. Plumley agreed that the behavior of tenants at 312 Central St has been terrible, and he blamed a lack of control on the part of absentee landowners.

Mr. Blythe agreed that there had been bad tenants there in the past, but asserted that future use of the building should not be condemned based on past problems. After the fire, there was a four-month criminal investigation of arson, followed by the possibility of claims by former tenants, both of which consumed much of the allowed one-year restoration period. Mr. Rivers purchased the property in November, and began work on the property prior to the one-year deadline.

Mr. Rivers stated that he purchased the property with the intention of restoring it to a 3-unit building. He provided the Board with architectural drawings (Exhibit D). He has talked to state plumbing & electric and fire safety officials, and has permit processes underway with those officials.

Mr. Blythe and Mr. Aseltine discussed the use of the house in the 1950s as a fraternity house. Mr. Aseltine stated that problems with tenants making noise are police problems.

Mr. Hoffman asked whether it was true, as stated in the Lawsons' letter, that Mr. Rivers had begun restoration of the building prior to obtaining all his permits. Mr. Rivers answered that he had been cleaning it out, and did not require a permit to clean it out. Also, that he had not known that it was a non-conforming property.

Mr. Hoffman stated that the intention of zoning is to bring areas into compliance over time with the type of development planned for each zone.

Mr. Knox asserted that policing parties does not work, and he does not want to have to call the police all the time. He wants the neighborhood to be the way it's supposed to be, single-family homes. Even if the building were made into a two-family building, the odds of it being quieter would be more in his favor than if it were to remain a 3-unit building.

Mr. Hoffman stated that the ZBA can only address questions directly bearing on zoning regulations, and cannot address tenant issues.

Mr. Hoffman moved to deny the request for a variance. There was no second.

Mr. Aseltine moved to extend the deadline for restoration of the building to one year from the date of the meeting. Mr. Donohue seconded the motion. **The vote on the motion was 2-1-0.** There was uncertainty as to whether 2 votes was sufficient to pass a motion, or whether 3 votes were required.

Mr. Aseltine moved that if the 2-1-0 vote is not legal, then the Board will re-open the Hearing in January. Mr. Hoffman seconded the motion. **The motion passed 3-0-0.**

Mr. Blythe located a zoning board manual, which clearly stated that in order to pass, a motion required a majority "of the **entire** board" [emphasis added]. Therefore, a majority is at least 3 votes, and the motion did not pass.

The Board will re-open the Hearing in January.

The hearing was closed at 8:00 PM.

Adjournment:

The motion to adjourn was made by Hoffman and seconded by Aseltine. The motion passed 3-0-0.

These minutes are subject to approval at the next regular meeting; however, they are substantially correct.